

ASSEMBLY BILL

No. 1631

Introduced by Assembly Member Sharon Runner

February 23, 2007

An act to amend Section 12022.53 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1631, as introduced, Sharon Runner. Sentencing: 10-20-life.

Existing law, commonly known as the “10-20-life” law, provides sentencing enhancements consisting of an additional consecutive term of 10 years, 20 years, or life in prison, for the commission of certain offenses if certain conduct involving a firearm is also committed. These existing provisions also provide that the enhancements are applicable to any principal in the commission of the underlying offense if it is pled and proved that the principal is also in violation of other provisions of law relating to criminal gang activity.

This bill would remove the requirement of a violation of the criminal gang provisions in order for the enhancements to apply to principals involved in the underlying offenses, as specified.

By expanding the scope of conduct to which these sentencing enhancements apply, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12022.53 of the Penal Code is amended
2 to read:
3 12022.53. (a) This section applies to the following felonies:
4 (1) Section 187 (murder).
5 (2) Section 203 or 205 (mayhem).
6 (3) Section 207, 209, or 209.5 (kidnapping).
7 (4) Section 211 (robbery).
8 (5) Section 215 (carjacking).
9 (6) Section 220 (assault with intent to commit a specified
10 felony).
11 (7) Subdivision (d) of Section 245 (assault with a firearm on a
12 peace officer or firefighter).
13 (8) Section 261 or 262 (rape).
14 (9) Section 264.1 (rape or sexual penetration in concert).
15 (10) Section 286 (sodomy).
16 (11) Section 288 or 288.5 (lewd act on a child).
17 (12) Section 288a (oral copulation).
18 (13) Section 289 (sexual penetration).
19 (14) Section 4500 (assault by a life prisoner).
20 (15) Section 4501 (assault by a prisoner).
21 (16) Section 4503 (holding a hostage by a prisoner).
22 (17) Any felony punishable by death or imprisonment in the
23 state prison for life.
24 (18) Any attempt to commit a crime listed in this subdivision
25 other than an assault.
26 (b) Notwithstanding any other provision of law, any person
27 who, in the commission of a felony specified in subdivision (a),
28 personally uses a firearm, shall be punished by an additional and
29 consecutive term of imprisonment in the state prison for 10 years.
30 The firearm need not be operable or loaded for this enhancement
31 to apply.
32 (c) Notwithstanding any other provision of law, any person
33 who, in the commission of a felony specified in subdivision (a),
34 personally and intentionally discharges a firearm, shall be punished

1 by an additional and consecutive term of imprisonment in the state
2 prison for 20 years.

3 (d) Notwithstanding any other provision of law, any person
4 who, in the commission of a felony specified in subdivision (a),
5 Section 246, or subdivision (c) or (d) of Section 12034, personally
6 and intentionally discharges a firearm and proximately causes great
7 bodily injury, as defined in Section 12022.7, or death, to any person
8 other than an accomplice, shall be punished by an additional and
9 consecutive term of imprisonment in the state prison for 25 years
10 to life.

11 (e) (1) The enhancements provided in this section shall apply
12 to any person who is a principal in the commission of an offense
13 ~~if both of the following are~~ *it is* pled and proved: *that any principal*
14 *in the offense committed any act specified in subdivision (b), (c),*
15 *or (d).*

16 ~~(A) The person violated subdivision (b) of Section 186.22.~~

17 ~~(B) Any principal in the offense committed any act specified~~
18 ~~in subdivision (b), (c), or (d).~~

19 (2) An enhancement for participation in a criminal street gang
20 pursuant to Chapter 11 (commencing with Section 186.20) of Title
21 7 of Part 1 shall not be imposed on a person in addition to an
22 enhancement imposed pursuant to this subdivision, unless the
23 person personally used or personally discharged a firearm in the
24 commission of the offense.

25 (f) Only one additional term of imprisonment under this section
26 shall be imposed per person for each crime. If more than one
27 enhancement per person is found true under this section, the court
28 shall impose upon that person the enhancement that provides the
29 longest term of imprisonment. An enhancement involving a firearm
30 specified in Section 12021.5, 12022, 12022.3, 12022.4, 12022.5,
31 or 12022.55 shall not be imposed on a person in addition to an
32 enhancement imposed pursuant to this section. An enhancement
33 for great bodily injury as defined in Section 12022.7, 12022.8, or
34 12022.9 shall not be imposed on a person in addition to an
35 enhancement imposed pursuant to subdivision (d).

36 (g) Notwithstanding any other provision of law, probation shall
37 not be granted to, nor shall the execution or imposition of sentence
38 be suspended for, any person found to come within the provisions
39 of this section.

1 (h) Notwithstanding Section 1385 or any other provision of law,
2 the court shall not strike an allegation under this section or a finding
3 bringing a person within the provisions of this section.

4 (i) The total amount of credits awarded pursuant to Article 2.5
5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part
6 3 or pursuant to Section 4019 or any other provision of law shall
7 not exceed 15 percent of the total term of imprisonment imposed
8 on a defendant upon whom a sentence is imposed pursuant to this
9 section.

10 (j) For the penalties in this section to apply, the existence of any
11 fact required under subdivision (b), (c), or (d) shall be alleged in
12 the accusatory pleading and either admitted by the defendant in
13 open court or found to be true by the trier of fact. When an
14 enhancement specified in this section has been admitted or found
15 to be true, the court shall impose punishment for that enhancement
16 pursuant to this section rather than imposing punishment authorized
17 under any other provision of law, unless another enhancement
18 provides for a greater penalty or a longer term of imprisonment.

19 (k) When a person is found to have used or discharged a firearm
20 in the commission of an offense that includes an allegation pursuant
21 to this section and the firearm is owned by that person, a
22 coparticipant, or a coconspirator, the court shall order that the
23 firearm be deemed a nuisance and disposed of in the manner
24 provided in Section 12028.

25 (l) The enhancements specified in this section shall not apply
26 to the lawful use or discharge of a firearm by a public officer, as
27 provided in Section 196, or by any person in lawful self-defense,
28 lawful defense of another, or lawful defense of property, as
29 provided in Sections 197, 198, and 198.5.

30 SEC. 2. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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